

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	3:18-cr-00281
	:	
v.	:	(Judge Brann)
	:	
JEFFREY G. BOYD	:	(Electronically Filed)

**MOTION TO SUPPRESS EVIDENCE OBTAINED IN VIOLATION OF
THE UNITED STATES CONSTITUTION**

AND NOW comes defendant Jeffrey G. Boyd, by his attorney, Elliot A. Smith, Assistant Federal Public Defender, filing this Motion to Suppress Evidence Obtained in Violation of the United States Constitution, based on the following:

1. On August 21, 2018, a grand jury indicted Mr. Boyd on one count.
2. Mr. Boyd entered a plea of not guilty on August 27, 2018.
3. The government intends to use in its case-in-chief at trial evidence tainted by the illegal seizure of Mr. Boyd, specifically the warrantless arrest of Mr. Boyd absent the existence of probable cause, on July 31, 2018.
4. Victims of an illegal seizure “may seek to suppress the evidentiary fruits of that illegal seizure under the fruit of the poisonous tree doctrine.” *United States v. Mosley*, 454 F.3d 249, 253 (3d Cir. 2006).

5. In addition, the government intends to use in its case-in-chief at trial evidence seized during the warrantless search of Mr. Boyd's vehicle on July 31, 2018.
6. "[S]earches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions." *Arizona v. Gant*, 556 U.S. 332, 338 (2009).
7. None of these exceptions apply here, and the Court should suppress the evidentiary fruits of this illegal search.
8. In addition, the government intends to use in its case-in-chief at trial evidence obtained as a result of the government's unreasonable delay in affording Mr. Boyd a judicial determination of probable cause after detaining him in relation to his alleged federal offense.
9. The Court should suppress the evidentiary fruits of the unlawful detention of Mr. Boyd.

WHEREFORE, the defendant, Jeffrey G. Boyd, asks the Court (i) to set this case down for an evidentiary hearing outside the presence of

the jury and (ii) to suppress all evidence tainted by the government's illegal conduct.

Respectfully submitted,

Date: December 6, 2018

s/ Elliot A. Smith
Elliot A. Smith
Assistant Federal Public Defender
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Attorney for Jeffrey G. Boyd

CERTIFICATE OF SERVICE

I, Elliot A. Smith, Assistant Federal Public Defender, do hereby certify that this document, the foregoing Motion to Suppress Evidence Obtained in Violation of the United States Constitution, filed electronically through the ECF system, will be sent to the registered Participants as identified on the Notice of Electronic Filing, including the following:

Michelle Olshefski
Assistant United States Attorney

and sent to the defendant by placing the same in the United States mail, first class, postage prepaid, at Scranton, Pennsylvania, addressed to the following:

Jeffrey G. Boyd

Date: December 6, 2018

s/ Elliot A. Smith
Elliot A. Smith
Assistant Federal Public Defender